

REVIEWS.

Aperçu de l'Évolution Juridique du Mariage, I. France. Par Émile Stocquart. Bruxelles, 1905. Pages 298.

The history of Matrimonial Institutions by Professor Howard, published in 1904, is now being followed by a fuller discussion, from the pen of a Belgian lawyer, of the juridical evolution of marriage in Europe, as a social institution. Dr. Stocquart has been known for years as an earnest student of Private International Law, and one of the most valuable chapters of the work now under review (Chapter XVIII) treats of the French view as to matters incident to a conflict of laws on the subject of the marriage contract and its consequences. The present volume is confined to the history of France, but articles which the author has contributed to various magazines indicate that others may be expected concerning that of different nations of Southern Europe.

The manner in which the Roman marriage became in time purely contractual, and then the church built up the notion of a sacrament, with the contract as its foundation, culminating in the Encyclical of Leo XIII of February 10, 1880, is clearly sketched (pp. 16, 40). The first step by which the civil power began its work of secularizing marriage he regards as the edict of Henry II, in 1556, as to securing the consent of parents (p. 66). The long disability of Protestants to contract marriage without denying their faith, is treated at length. Down to the brink of the French Revolution, in language quoted from Dupin (p. 150), "*pour les protestants qui ne voulaient pas abjurer ou mentir à Dieu et aux hommes, il n'y avait pas de famille.*" The Constituent Assembly cut the knot. The State became a thing distinct from the Church and marriage purely an affair of civil cognizance (p. 206).

In the original project of the Code Napoléon, it was formally declared that "*La loi ne considère le mariage que sous ses rapports civils et politiques.*" This was struck out, but only because it was deemed needless (p. 246).

Of late years, there have not been wanting those who have advocated in the French press free love and marriage dissoluble at will (p. 286) as fully as was ever done in the days of the Revolution. But French society, as a whole, bases its conception of marriage on the love of the family, a thing "almost unknown in antiquity and absorbed in the middle ages by the ideas of authority and subordination" (p. 295). France needs only to advance the education of her women to put husband and

wife on an equal footing, and to attain that is to give their union its true dignity and consecration (296).

Dr. Stocquart writes with grace as well as clearness. His work is not that of an original investigator, who has discovered new material. He takes what others have brought to light, and seeks to bring it into fuller light, and to present a connected story in orderly sequence. His reading has been extensive, and he makes good use of it for the purpose he has in view. That is not the evolution but the juridical evolution of marriage; and by confining himself closely to that he has made a book of especial value to students of historical jurisprudence.

Simeon E. Baldwin.

The American Constitutional System. By Westel Woodbury Willoughby. The Century Co., New York, 1904. Cloth, pages 318.

This work, as the author says, is intended to serve as an introduction to a series of volumes entitled "The American State," in which will be discussed in detail the manner in which the governmental agencies of this country—federal, state and local—are organized and operated. The book, however, is complete in itself, as a general comprehensive description of the United States as it is to-day; tracing in a clear-cut logical form how it became so. The author states and discusses the arguments concerning the States' Rights theories, pro and con, as regards the intention of the framers of the Constitution, the words of the Constitution itself, and the construction of that instrument by the people who adopted it. That the people make the government and that the people made this a Union and not a League is shown by their acts at various intervals from immediately after the formation of the Constitution down to their complete and final verdict in the Civil War. The power of the Federal government to exercise control over the states, the limits of that power and the lack of it in certain important particulars, are taken up and treated as is also a question which is of extreme interest to us now—the status of our territorial acquisitions. These relations are discussed with many references to the decisions of the United States Supreme Court; the recent "Insular Case," *Downes v. Bidwell*, especially being quoted from at length. On the whole, the book is a general dissertation on questions which are, and have been, of vital import to Americans. As we should expect from its author, it is forcible, convincing and impartial; furnishes us with a clear view of the government to which we are subject; and should be of great value to all from the cursory reader of American history, to the legal practitioner dealing with constitutional law.

J. W. J.

The Organization and Management of Business Corporations. By Walter C. Clephane, LL.M. West Publishing Co., St. Paul, 1905. Buckram, pages 246.

Of the many text-books on corporations which have appeared during recent years, the majority have dealt with the science rather than the art of corporate existence. This volume by Professor Clephane, treating almost exclusively the latter phase of the subject, is based upon a course of lectures which were given by the author and designed to prepare the student for the actual duties of professional work. It is therefore well adapted to the use of the student or of the young lawyer just entering upon his professional duties. Every essential step in the organization and management of a business corporation is carefully and fully set forth and accompanied with forms in those instances where written instruments are used. The work, though somewhat elementary, is thoroughly practical and will be found to be a valuable manual to lawyers and to laymen who are officers of corporations.

W. D. E

Street Railway Reports, Annotated. Edited by Frank B. Gilbert. Vol. II. Matthew Bender, Albany, 1904. Sheep, pages 1070.

The second volume of the Street Railway Reports shows development both quantitatively and qualitatively as compared with its predecessor. The indexing and other machinery have been revised in method, with a view to greater convenience of reference, and scope has been broadened by including some decisions of the lower courts. But the most noticeable change is the very considerable addition to the extent of the notes, which in the present volume are of no little importance. Brief but succinct treatments of topics of constant and thoroughly practical application in the practice of the hour, their timeliness is greatly to be appreciated.

C. C. R.